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*Attorneys for Defendant American Family Mutual Insurance  
Company, S.I.*

UNITED STATES DISTRICT COURT  
DISTRICT OF ARIZONA

Terry Nickle,

Plaintiff,

vs.

American Family Mutual Insurance  
Company, S.I., a Wisconsin mutual  
corporation; John and Jane Does I-X; Black  
and White Corporations/Partnerships I-X,

Defendants.

No.

**NOTICE OF REMOVAL**

Defendant American Family Mutual Insurance Company, S.I. (“Defendant”) gives notice that it is removing this action from Maricopa County Superior Court to the United States District Court for the District of Arizona pursuant to 28 U.S.C. §§ 1332, 1441 and 1446 for the following reasons:

**A. This Court Has Diversity Jurisdiction Pursuant to 28 U.S.C. § 1332.**

**1. There is complete diversity among the legitimate parties.**

(a) Plaintiff is an individual residing in the state of Arizona. *See* Complaint in matter No. CV2017-014497, Superior Court of Arizona, Maricopa County

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1 (“Complaint”) at ¶ 3, attached as Exhibit 1.

2 (b) Defendant is a Wisconsin corporation with its principal place of  
3 business in Madison, Wisconsin.  
4

5 **2. The Amount in Controversy Exceeds \$75,000.**

6 The determination of diversity jurisdiction is made as of the time of removal. *St.*  
7 *Paul Mercury Indemnity Co. v. Red Cab Co.*, 303 U.S. 283 (1938); *see also Rogers v.*  
8 *Wall-Mart Stores, Inc.* 230 F.3d 868, 871 (6<sup>th</sup> Cir. 2000). Included in the calculation of the  
9 jurisdictional minimum are general damages, special damages, punitive damages, and  
10 attorneys’ fees. *See Ansley v. Metropolitan Life Ins. Co.*, 215 F.R.D. 575 (D. Ariz. 2003);  
11 *see also Chabner v. United of Omaha Life Ins. Co.*, 225 F.3d 1042, 1046 n.3 (9<sup>th</sup> Cir.  
12 1998); *Galt G/S v. JSS Scandinavia*, 142 F.3d 1150, 1155-56 (9<sup>th</sup> Cir. 1998).  
13  
14

15 Here, the evidence establishes by a preponderance of the evidence that the  
16 jurisdictional minimum has been met. Plaintiff’s last settlement demand was for the  
17 \$100,000 UIM policy limits. That demand alone, exclusive of pre-judgment interest and  
18 attorneys’ fees, establishes that the amount in controversy meets the requirement for  
19 diversity jurisdiction.  
20

21 Based on the foregoing, Defendant has met its burden of establishing the  
22 jurisdiction of this Court.  
23

24 **B. This Notice of Removal is Timely.**

25 Plaintiff filed the complaint on November 20, 2017 and served it on American  
26 Family through the Arizona Department of Insurance on December 12, 2017. Defendant

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American Family first received notice of the complaint upon its receipt from the Department of Insurance on or after December 14, 2017. This Notice of Removal, therefore, has been timely filed within 30 days of that date. *See* 28 U.S.C. § 1446(b).

C. Defendant has attached copies of the original Complaint, Summons, and Certificate of Compulsory Arbitration and has no other court documents in its possession. *See* Exhibits 1-3.

D. Defendant has concurrently filed a copy of this notice with the Arizona Superior Court.

Defendant has served upon Plaintiff a copy of this notice.

DATED this day of January, 2018.

TYSON & MENDES, LLP

By: /s/

Lynn M. Allen

K. Michelle Ronan

*Attorneys for Defendant American Family*

**CERTIFICATE OF SERVICE**

I hereby certify that on January 11, 2018, I electronically transmitted the attached document to the Clerk's Office using the CM/ECF System for filing and transmittal of a Notice of Electronic Filing to the following CM/ECF Registrants:

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*Attorneys for Plaintiff*

By: /s/